

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JASON LEE VAN DYKE
Plaintiff

v.

THOMAS CHRISTOPHER RETZLAFF
a/k/a Dean Anderson d/b/a BV Files, Via
View Files L.L.C., and ViaView Files
Defendant

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Case No. 4:18cv247

PLAINTIFF'S RULE 26(F) REPORT

COMES NOW Plaintiff, Jason Lee Van Dyke, and files this Rule 26(f) report in obedience to the orders of this Court entered on April 11, 2018.

A. FACTUAL AND LEGAL SYNOPSIS OF THE CASE

1. Plaintiff has alleged causes of action for (a) libel per se; (b) intrusion on seclusion; and (c) tortious interference with an existing contract against Defendant. On or around December 20, 2017, Defendant filed a frivolous grievance against Plaintiff with the State Bar of Texas.
2. This grievance was initially dismissed as an inquiry and Defendant timely appealed this classification of the grievance to the Board of Disciplinary Appeals ("BODA"). On or around March 1, 2018, BODA granted Defendant's appeal and a copy of the confidential correspondence granting the appeal appeared on Defendant's blog, "BV Files" (www.viaviewfiles.net), on or around March 8, 2018.
3. On or around March 25, 2018, Defendant contacted Plaintiff's employer, Karlseng, LeBlanc, & Rich L.L.C ("KLR"), wrongfully accused Plaintiff of being a "Nazi" and a "white supremacist", and made several threats against Plaintiff's supervisor, Robert Karlseng, in an effort to have Plaintiff fired.

4. On the same date, Defendant posted false and disparaging material about Plaintiff, KLR, and Robert Karlseng on his "BV Files" blog. This material came to the attention of Robert Karlseng on or around March 27, 2018, who terminated Plaintiff's employment the same day due to the presence of the false and defamatory material online. Plaintiff sued Defendant in state Court the following day.
5. Defendant continued publishing false and defamatory material on "BV Files" about Defendant in posts on April 1, 2018 and April 6, 2018. In addition to falsely claiming that Plaintiff is a "Nazi" and a "white supremacist", these posts allege that Plaintiff is a "drug addict" and a "pedophile". They also falsely allege that Plaintiff engaged in professional misconduct against Defendant and that Plaintiff has been convicted of a crime involving violence against women.

B. JURISDICTIONAL BASIS FOR SUIT

6. This Court has subject matter jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332(a)(1) because this is a dispute between two citizens of different U.S. states and the amount in controversy exceeds \$75,000.00.
7. This Court has personal jurisdiction over the Defendant for a number of reasons including, but not limited to, the fact that Defendant has litigated in Texas courts multiple times in the past over the past ten years, the fact that Defendant has willfully and purposefully directed tortious conduct against a resident of this state, and because Defendant recently admitted in an interview about this case that he splits his time between Scottsdale, Arizona and San Antonio, Texas. A copy of the article containing that interview is attached hereto as Exhibit "A" and incorporated by reference herein.

C. PARTIES

8. The true and correct name of Plaintiff is Jason Lee Van Dyke.
9. The true and correct name of Defendant is Thomas Christopher Retzlaff.
10. Plaintiff does not anticipate any additional parties to this lawsuit. However, this may change depending upon the behavior of Defendant and his known associates.

D. RELATED CASES

11. To the best of Plaintiff's knowledge, there are no cases related to this case pending before any state or federal court.

E. DISCLOSURES

12. Plaintiff sent all of the mandatory disclosures required by Rule 26(a)(1) and the orders of this Court to Defendant by U.S. Certified Mail, postage pre-paid, return receipt requested, on April 12, 2018.

F. PROPOSED SCHEDULING ORDER DEADLINES

13. Plaintiff has attached his proposed scheduling order deadlines to this report as Exhibit "B" and incorporates the same by reference herein.

G. DISCOVERY

14. Plaintiff primarily requests discovery pertaining to Defendant's ownership of, control of, and contributions to the "BV Files" blog and Defendant's use of the "Dean Anderson" email address (dean714@yandex.com). Specifically, Plaintiff wishes to take the oral depositions of Denise Hollas (formerly Denise Retzlaff), Collin Retzlaff, and Brittany Retzlaff concerning these issues. Plaintiff wishes to obtain by subpoena discovery directly from Karlseng, LeBlanc & Rich L.L.C. concerning Defendant's communications with them. Finally, Plaintiff wishes to obtain discovery from

Cloudflare, Inc., and any other provider which may be servicing the BV Files website, to affirmatively determine ownership of the same.

15. Plaintiff desires to obtain from Defendant directly any and all documents that he has in his possession that relate or pertain to Plaintiff and copies of any communications between him and any third parties that relate to Plaintiff. Due to Defendant's criminal history, Plaintiff requests that Defendant be ordered to preserve this information in electronic form and produce it to Plaintiff in a format (such as PDF) that are easily viewable. Defendant has been unwilling to communicate with Plaintiff in a civilized manner, and accordingly, no agreements currently exist. See Ex. C.
16. Due to Defendant's behavior, Plaintiff will be requesting a protective order under Rule 26(c) to restrain Defendant from obtaining during the discovery process any information pertaining to Plaintiff's past, present, or future clients, as well as any information from the files of those clients that is protected by the attorney-client privilege. Plaintiff will also be requesting a protective order with respect to matters that are clearly outside the scope of discovery because Defendant has asserted that he intends to request such materials. See Ex. C.

H. SETTLEMENT AND MEDIATION

17. Plaintiff is of the opinion that there is no reasonably likelihood of settling this case.
18. Plaintiff objects to mediation in this case due to the fact that Defendant is incapable of communicating with him in a civilized manner and, under the circumstances, there is no reasonable likelihood of settlement. Attached hereto as Exhibit "C" is a copy of the correspondence received by Plaintiff from Defendant when he attempted to confer with him concerning the matters ordered by the Court. Plaintiff declines to make any further

attempts to confer with Defendant.

19. In the event that mediation is ordered in this case over Plaintiff's objections, Plaintiff requests that the Court appoint a mediator. Plaintiff also requests that said mediation be held in the courthouse, and that each party be escorted to and from his vehicle by a bailiff so as to avoid the potential for physical violence between the parties.

I. IDENTITY OF PERSONS TO BE DEPOSED

20. In addition to Defendant, Plaintiff intends to take the oral deposition of Denise Hollas, Collin Retzlaff, Brittany Retzlaff, and Robert Karlseng.

J. TRIAL MATTERS

21. Plaintiff has not requested a jury and does not intend to request a jury.
22. Plaintiff anticipates that this trial will take approximately two days in the event of a trial before the Court and three days in the event of a jury trial.

K. MAGISTRATE JUDGE

23. Plaintiff consents to trial before a magistrate judge. Plaintiff attaches the appropriate consent form to this report as Exhibit "D".
24. Defendant refuses to confer with Plaintiff in a civilized manner, and therefore, it is unknown to Plaintiff whether Defendant consents to trial before a magistrate judge.
- See Ex. C.

Respectfully submitted,

/s/ Jason Lee Van Dyke
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was electronically filed on the CM/ECFsystem, which will automatically serve a Notice of Electronic Filing on Defendant, Thomas Christopher Retzlaff.

/s/ Jason Lee Van Dyke
JASON L. VAN DYKE